**THE HON'BLE SMT JUSTICE T.MEENA KUMARI**

**&**

**THE HON'BLE SRI JUSTICE G.CHANDRAIAH**

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**WRIT PETITION NO.19632 OF 2007**

**Dated: 24.09.2007**

Between:

1. The Director of Health,
   Andhra Pradesh, Hyderabad and another.

..Petitioners

And

Syed Hassanuddin

..Respondent.

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**THE HON'BLE SMT. JUSTICE T.MEENA KUMARI**
**&**
**THE HON'BLE SRI JUSTICE G.CHANDRAIAH**

**WRIT PETITION NO.19632 OF 2007**

**ORDER:** (Per Hon'ble Smt. Justice T. Meena Kumari)

This is a writ petition filed by the petitioners aggrieved by the order of the tribunal dated 02.02.2007 in O.A.No.3483 of 2006.

The respondent herein is the applicant before the tribunal. For the sake of convenience, the parties will hereinafter be referred to as they are arrayed in the O.A.

The respondent-applicant filed the above O.A., seeking to declare the proceedings in Rc.No.2885/E3.D/2001, dated 24.4.2006 of the 1st respondent as illegal and arbitrary and consequently, to direct the respondents to appoint the applicant as Junior Assistant by way of appointment by transfer, strictly as per his seniority, eligibility and in accordance with Rules on the ground that he was appointed on compassionate grounds and his services were regularized and his name was shown in the provisional seniority list of attenders issued by the Director of Health and then, the applicant made a representation for appointment by transfer to the post Junior Assistant and the same was rejected by the 1st respondent with a direction to approach the District Medical and Health Officer, where his father worked, for seniority in the cadre of attenders.

The tribunal having observed that the applicant was appointed in the year 2000 on compassionate grounds and his services were regularized and that at this stage, directing the applicant by the authorities, to approach DM & HO, Karimnagar is discriminatory and

the rejection order passed by the 1st respondent is not a speaking order and that as the compassionate appointment of the applicant continues, the non-inclusion of his name in the seniority list of attenders in the office of Director of Medical and Health Services is arbitrary and illegal, disposed of the O.A., directing the respondents to include the name of the applicant in the Seniority List of Attenders in the office of Director of Medical and Health Services with all consequential benefits.

Having aggrieved by the same, the respondents-authorities filed the present writ petition.

Heard the learned Government Pleader for Services and perused the material available on record.

On a perusal of the material available on record, it is apparent that pursuant to the orders of the Tribunal, dated 2.2.2007, the name of the applicant was included in the Seniority list of Attenders, DM & HS, A.P., Hyderabad and his name was shown at Sl.No.80 vide proceedings dated 7.3.2007 and the same was approved by the Director of Health, A.P., Hyderabad.

By complying with the direction of the tribunal, the respondents-authorities filed the present writ petition taking a new cause of action, which was not raised before the tribunal that the appointment of the applicant was irregular. At this stage, the stand taken by the authorities is baseless and the same cannot be determined in this proceedings and therefore, the order impugned needs no interference by this Court. Hence, the writ petition is devoid of merits and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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Justice T. Meena Kumari

Justice G.Chandraiah

Date: 24.09.2007
Gurc/nn

**THE HON'BLE SMT. JUSTICE T.MEENA KUMARI**
**&**
**THE HON'BLE SRI JUSTICE G.CHANDRAIAH**

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**WRIT PETITION NO.19632 OF 2007**

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

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**Dated: 24.09.2007**